

**South Dakota Public Utilities Commission Meeting
Tuesday, April 24, 2007, at 8:30 A.M.
State Capitol Building, Room 412
Pierre, South Dakota
MINUTES OF THE COMMISSION MEETING**

Chairman Dustin Johnson called the meeting to order. Present were: Vice Chairman Gary Hanson; Commissioner Steve Kolbeck; Executive Director Patty Van Gerpen; Deputy Executive Director Heather Forney; Commission Advisor Greg Rislov; Commission Attorneys Rolayne Wiest and John Smith; Staff Attorneys Karen Cremer and Kara VanBockern; Staff Analysts Keith Senger, Brian Rounds, Dave Jacobson and Nathan Solem; Consumer Affairs Supervisor, Deb Gregg; and Administrative Secretary Demaris Axthelm.

Also present were: Bill VanCamp, Olinger, Lovald, McCahren and Reimers representing EchoStar Satellite, LLC.

Joining the meeting by telephone were: Jim Wilcox, representing Xcel Energy; and Colleen Sevald, representing Qwest Corporation.

Consumer Reports

1. Status Report on Consumer Utility Inquiries and Complaints Received by the Commission. (Consumer Affairs: Deb Gregg)

Ms. Deb Gregg reported that the Commission had received a total of 103 contacts. Since the last report was prepared for the April 10, 2007 Commission meeting, 17 contacts involved telecommunications services; 20 contacts involved electricity issues; 7 contacts involved natural gas issues; 3 contacts involved gas and electrical services, 8 contacts involved cellular phone issues; 15 contacts involved Do Not Call Registry; and 33 contacts involved issues not regulated by the Public Utilities Commission. In 2007, 690 of the 855 complaints registered have been resolved informally. In 2006, 2,199 of the 2,466 complaints registered have been resolved informally.

Electric

1. EL07-012 In the Matter of the Filing by Xcel Energy for Approval of its 2006 Economic Development Annual Report and 2007 Economic Development Plan. (Staff Attorney: Kara Van Bockern, Staff Analyst: Keith Senger)

Jim Wilcox, representing Xcel Energy (Xcel), stated the economic development report goes back to the last rate case in 1992. When the Commission approved the cost of the economic development program totaling \$100,000.00 per year Xcel did hit that number in 2006. Chairman Johnson asked Xcel to explain the expenditure of the annual dues for the South Dakota Chamber. Chairman Johnson stated that in the future he would ask that the dues expense be explained in further detail and that it not be paid out of the economic development budget. Mr. Wilcox informed the Commission that Xcel would find a different place to pay the expense of the membership dues. Commissioner Kolbeck asked Mr. Wilcox to explain Xcel's investments in the different communities. Vice Chairman Hanson asked Mr. Wilcox if there were enough people asking for economic development funds. Mr. Wilcox stated that there are plenty of communities asking for funds. Vice Chairman Hanson had Mr. Wilcox explain how Xcel works with the smaller communities in the outreach programs. Mr. Wilcox explained that Xcel sends out letters to the Mayors of the smaller communities to remind them that the program exists. After request are sent to Xcel, Xcel determines where the needs are and makes recommendations. Xcel does try to fund everything that is

requested. Staff stated that they have verified the receipts and would like to note that staff would throw out all the expenses in a rate case that Xcel is spending on its dues in these programs as an unallowable expense. This economic development program is a method of allowing some in. Staff also stated that the 2007 budget is exactly the same as 2006, and as Xcel gets its applications and disburses its funds, it is then broken down and at the end of the year staff does receive a statement of the actual breakdowns. Staff recommended approval of the 2006 Economic Development Report and the 2007 Economic Development Plan.

Commissioner Kolbeck moved to approve the 2006 Economic Development Report and the 2007 Economic Development Plan in Docket EL07-012. Motion passed 3-0

Natural Gas

1. **NG07-010 In the Matter of the Filing by Montana-Dakota Utilities Co. for Approval of Tariff Revisions. (Staff Attorney: Kara Van Bockern, Staff Analyst: Dave Jacobson)**

Mr. Dave Jacobson stated that Montana-Dakota Utilities Co. (MDU) is still in the process of submitting additional information and revised revisions and staff requests a deferral. Chairman Johnson then asked if there was any opposition of the deferral. Since there was no opposition, Commissioner Johnson stated that they would take up Docket NG07-010 when appropriate.

Telecommunications

1. **TC05-047 In the Matter of the Proceeds from Bonds and Other Security for the Benefit of Customers of S&S Communications (Staff Attorney: John Smith; Staff Analyst: Keith Senger)**

Mr. John Smith and Mr. Keith Senger explained that on April 6, 2007, the Commission received a letter from Aberdeen Finance Corporation (AFC) containing the joint offer of AFC and one of its shareholders to purchase the 35 shares of AFC stock received by the Commission under AFC's Bankruptcy Plan of Reorganization. The offer is to pay \$3,500 (\$100 per share) for the stock and to simultaneously pay the Commission the \$2,500 owed in cash under the Plan in exchange for an assignment of the Commission's rights to payment over four annual installments under the Plan. Staff outlined several options for consideration by the Commission, including (i) accept AFC's offer; (ii) make a counter offer; (iii) distribute the shares to claimants; or (iv) continue to hold the shares for an indefinite period of time in hopes of a more favorable sale opportunity. A lengthy discussion followed between the Commission and Staff.

Chairman Johnson moved to direct Staff to serve notice of the AFC offer on all claimants, to include the options described by staff and to include as the preferred option an option that would accept AFC's offer to purchase but would also afford claimants the option to buy back stock at the same \$100 per share price. Motion passed 3-0.

Chairman Johnson moved to authorize the Executive Director to enter into a contract with one or more financial professionals to obtain one or more professional opinions on the value of the shares. Motion passed 3-0.

2. **TC05-153 In the Matter of the Review of the Implementation of 811 as a National Abbreviated Dialing Code for One Call Notification. (Staff Attorney: Kara Van Bockern)**

Ms. Kara VanBockern of staff stated that all telephone companies have instituted the 811 process. Qwest was the only company that preferred a contract and a very minimal fee to make this transition. South Dakota One Call Board feels that a very fair contract was negotiated. In the event that they would need additional funds for this process or need to modify this process, it would come before the Commission. Staff then recommended that Docket TC05-153 be closed. Chairman Johnson asked staff if there has been any field testing done on this program to verify that when 811 is called that you will receive service and if any marketing has been done. Ms. VanBockern stated that the 811 number has been tested, advertisement has been done through billboards, pamphlets, television commercials, and posters will be distributed to customers by some utility companies.

Chairman Johnson moved to Dismiss and close Docket TC05-153. Motion passed 3-0

3. TC06-191 In the Matter of Dish Network's Failure to Register as a Telemarketer and the Solicitations it made to those Registered on the Do Not Call List. (Staff Attorney: Kara Van Bockern)

Ms. Kara VanBockern stated Dish Network's structure involves various levels of management and corporate organization. Staff feels the need to investigate further regarding how Dish Network is structured and how it gets its product to consumers. Staff stated additional questions need to be answered regarding whether the phone calls are from Dish Network, Echosphere or other Dish Network entities. Additionally, it must be determined whether the entities cause the phone calls to be made to South Dakota consumers that are registered on the Do Not Call List. Staff asked for a Motion for Continuance of Discovery and to add additional Parties, those being other Dish Network entities and EchoStar, LLC. Mr. Bill VanCamp, representing EchoStar Satellite LLC and EchoStar Communications Corporation did agree to waive the confidential file of the corporate structured chart. Ms. Van Bockern further explained to the Commission the Corporate Chart and the different entities of Dish Network. Staff then asked to modify its request that Echosphere LLC and Dish Network Service LLC be added to this docket and that discover be extended for one month for further investigation. Mr. VanCamp agreed that Echosphere should be added, but feels that Dish Network should not be added.

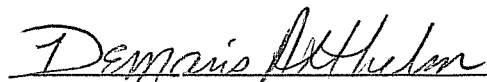
Motion made by Chairman Johnson to grant the continuance of discovery and to add additional parties Echosphere LLC and Dish Network Service LLC to Docket TC06-191. Motion passed 3-0

4. TC07-017 In the Matter of the Filing for Approval of an Amendment to an Interconnection Agreement between Qwest Corporation and Ionex Communications North, Inc. (Staff Attorney: Kara Van Bockern)

Ms. Kara Van Bockern stated that the amendment has been properly filed, has been properly executed and does not appear to contain discriminatory provisions. No comments were filed and staff recommended approval of the Amendment.

Motion made by Vice Chairman Hanson to approve the Amendment to the Agreement in Docket TC07-017. Motion passed 3-0

Meeting adjourned.


Demaris Axthelm
Administrative Secretary